

LIBERTY OF FREEDOM.

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Poetry.

Song of Emigration.

BY MR. MERRILL.

There was heard a song on the chiming sea,
A mingled breathing of grief and glee;
A wailing woe, and a jubilation,
Filling with triumph the sunny air;
It sang, while the heart throbs with the surge's flow,
But ever and anon
A murmur of farewell
Told, by its plaintive tone,
That from woman's lips it fell.
"Away, away, for the foaming main!"
This was the cry and the jubilation;
"Thou art a slave, and a wretched one;
We will shape our course by a brighter star;
There is a land where no foot has
yet trod,
And whose wealth is all for the first brave gain!"
"But, alas! that we should go!"
"From the homestead, warm and low,
By the brook and in the glen."
"We will rear new homes under the trees that
glow
O'er our white walls we will train the vine,
And in its shadow at day's decline;
And watch our home as a father's eye,
Till the green avenues all bright and still."
"But, alas! for the sweet
Of the flowering orchard trees,
Where first our childhood played,
Midst the birds and honey bees!"
"All, all our own shall the forest be;
None shall say, 'Hither no further pass';
We will track each step through the wavy grass;
We will chase the deer in his speed and might,
And bring proud spoils to the hearth at night."
"But, oh! the gray church tower,
And the school-house bell,
And the sheltered garden flower,
We have bid them all farewell!"
"We will give the names of our farthest race
To each bright star whose course we trace;
We will leave our memory with mountains and floods,
And the path of our daring in boundless woods;
And our words shall be a beacon to the brave,
Where the Indians' graves lie alone before."
"But who shall teach the flowers,
When our feet have trod, to dwell
In a soil that is not ours?
Home, home and friends, farewell!"

Address.

For the Herald of Freedom.
Freedom or Slavery in Kansas.

BY N. W. GOODRICH, ESQ.

We are now close upon the eve of an election, which will be the most important event in the history of Kansas, whether as Territory or State; an election which will tell most powerfully, for weal or for woe, upon Kansas, for long, long years, if not through all future time. There is a deep and weighty obligation resting upon us to approach this question with deliberation, calmness, and investigation and decide, with a full sense of the responsibilities under which we are acting. It is our duty to lay aside all prejudice and passion—to strip the question of all disguises, and look at it and examine it as it really is.

And what is this question? It is nothing more nor less than to determine whether the incubus of slavery, with all its paralyzing influences, socially, morally, politically, commercially, shall be fastened upon us, and the Territory be Africanized—or whether we shall start out, basing our future prospects upon free labor, with all its genius, enterprise, and energy, so much better adapted—as the whole experience of our new States proves most clearly—to improve and develop the resources with which nature has so bountifully blessed our Territory. We should decide upon this question without any reference to what may be the preferences or wishes of any and every class of men out of Kansas Territory. The institutions of Kansas should be so framed as to meet the wants and wishes, and promote the happiness and prosperity of the people of Kansas Territory. Are the people of Kansas Territory the vassals of the people of any State or section of the Union, that they should frame their laws, and adopt institutions to meet the particular wishes of any class of people out of the Territory? It is those who become citizens of Kansas, who make it their home, who are to decide upon her position and course of policy; and they must be governed by the wishes and interests of men out of the Territory, instead of acting for the welfare and interest of the people of the Territory.

Our interests in Kansas are all the same, no matter from what section of the Union we come, whether from the North or the South, the East or the West; and the promotion of the general good of the people of the Territory should receive our concentrated efforts. We should lay aside all the old questions which have divided us in the old States, the local questions of difference between the North and the South, between Whigs and Democrats, and all the divisions and questions about which we may have differed. A man's political antecedents should be traced no further than his entrance into the Territory. If you undertake to trace a man's political position in the State from whence he came, and proscribe or endorse him as you approve or disapprove of his previous course, what is the consequence? Why it is simply this: those men who have occupied a particular position in the States, will rally around and defend and sustain each other, and you effect the organization of as many parties as you have in the old States; and if you proscribe men on account of their previous position as Whigs and Democrats, you can never secure a union of the different parties to accomplish any great object. Let everything be commenced on a new basis. Let the only political organization we have be a union of effort to accomplish any object which will work the greatest good, for the present and the future, to the people of the Territory.

I trust that on the question of slavery every man will carefully review the question in all its bearings, its influences, in every point of view, upon the Territory and the people. I know that many people are alarmed at the cry of Abolitionism, which is thrown at all who are in favor of making Kansas free, and excluding slavery. Now this charge is a trick, and a very shallow trick too. What does Abolitionism mean? Why, it means

to abolish something that exists, and upon the slavery question, is applicable to a class of persons who are in favor of immediately abolishing slavery in the States where it exists—in favor of severing at once, absolutely and unconditionally, the relation of master and slave, and placing them upon an equality, civil and political, side by side, in the same community. The term, then, is altogether inapplicable to any party in the controversy pending in Kansas Territory, because no such question can arise. Those who oppose the introduction of slavery into Kansas, occupy precisely the same position which would be occupied by those who should oppose the introduction of slavery into the United States, provided slavery did not exist in any State, and the question was whether we should introduce it. They occupy the same position which has been occupied by thousands of southern men of high political standing, fathers of democracy, who were opposed to the extension of slavery into our new Territories. It is unfair, as well as false, to charge Abolitionism upon the opponents to the introduction of slavery into Kansas; for a large class of them from the North have always stood, frequently like the federal troops in the army, between the rights of the South and the assaults of Abolitionists. Because there may be Abolitionists in Kansas opposed to making Kansas a slave State, is no more reason for charging all who are opposed with Abolitionism, than because there may happen to be a dishonest man among the pro-slavery men in the Territory, to charge all who are in favor of making Kansas a slave State with being dishonest men. There are probably Abolitionists in Kansas; but they are very few, and they will have no more influence in moulding the future policy of Kansas than they will in determining the result of the combat of armies in the old world. I speak of slavery in the Territory, and not of the introduction of slavery into Kansas, because I assume that, as a legal question, it is idle to talk about slavery now being in Kansas. There is no such thing. There may have been negroes owned as slaves in the States, or bought and brought into the Territory; but they are not slaves if brought in voluntarily by the pretended owner for any purpose except that of merely passing through, (and this exception is a disputed point among legal men;) but they are free negroes by operation of law. It is a well settled principle of law, and so decided by northern and southern courts, that if the owner of a slave takes the slave into a jurisdiction where slavery does not exist by law, or outside the slave's territory, to stay a while, to labor for the master, or for any other person, or to reside, that the slave becomes free. Slavery does not exist in Kansas, because there is no law in force creating the relation of master and slave. Slavery is the creature of law, and existing only as far as the jurisdiction of the authority which created it, and no further.

If slavery did not require the sanction of positive law to sustain it, then if there were any negroes without owners, the man who could first seize them and reduce them to his possession, would own them, just as the man who is fortunate enough to catch a wild horse, he becomes the owner.

The speech of Mr. Franklin, of Maryland, in the House of Representatives of the U. S. at the session of 1853-4, on the Kansas-Nebraska bill, is an able review of the question, whether slavery can exist without positive law, and all of his conclusions, from a review of the nature of slavery, and the authorities on the subject, are, that slavery does not exist, and cannot exist in Kansas or Nebraska, without statutory law in each Territory creating it. Mr. Franklin represents a slaveholding district.

But there is another reason, perfectly conclusive to every reasonable man, why slavery does not exist in Kansas, and cannot exist without the action of the Territorial Legislature. The act of Congress of March 6th, 1820, section 8th, forever prohibited slavery in Territory of Kansas was a part. The act organizing the Territory, where it repeals the said 8th section, only repeals it conditionally and partially.

The true intent and meaning of the repealing clause is specifically stated: "that no law shall be passed which shall exclude or exclude it therefrom, but to leave the people thereof perfectly free to regulate the slave trade themselves."

1. Slavery did not exist in Kansas previous to the passage of the organic law, because the act of March 6, 1820, specifically prohibited it.

2. If the position that slavery exists in Kansas now were true, how does it legally exist? Why the person who takes that position, must answer that Congress has repealed the prohibition, and we have a right to bring our property into the Territory. Slaves in the State from which we came are property; therefore, if slaves have been brought here, slavery exists. But this position will not hold good. Congress, in the repealing section, expressly declares the intent and meaning to be, not to legislate slavery into the Territory. If your position be true, Congress has legislated slavery into the Territory, because the repeal of the prohibition, according to your position, legislates slavery, directly in the teeth of what Congress declares to be the true intent and meaning of the repealing clause. If slavery can legally exist now in the Territory, without statutory action on the part of the Territorial Legislature, then it certainly could before the passage of the act of 1820; and then it is upon a revised rule of regulation, properly a rule, as you hold you can bring your slaves here now and hold them, which could not be revised.

3. The repealing section says the true intent and meaning of the act is to leave

the people of the Territory perfectly free to regulate their own institutions. Now, if the position be true, that the owner of a slave may bring the slave into Kansas, and legally hold the slave as such, and thus create slavery in the Territory, the people would not be left perfectly free, their hands would be tied; because the Territorial Legislature could not exclude slavery; it could only prohibit the bringing of any more into the Territory. It could not divest the title of those then held; because, having been legally held as slaves and property, the Territorial Legislature could not divest the master of his property in the slave. So that the claim of right to hold slaves in Kansas, at present, comes in direct collision with the free right of the people to regulate their own institutions, which is expressly conceded in the organic law. You may turn the question into any form you please, and the conclusion of every branch of the question shows conclusively that slavery does not and cannot exist in Kansas without legislative sanction. But somebody whispers that Congress has not the right to legislate for the Territories, therefore we can only resort to first or elementary principles.

1. As a judicial question, the power of Congress is not an open question, the Courts in northern and southern States, and the Supreme Court of the United States, having all uniformly decided in favor of the authority of Congress to pass the ordinance in reference to the North-western Territory, which was to that Territory what the act of 1820 was to Kansas. As a legislative and political question, and one of policy, it is open; but judicially, it is sealed by an unbroken current of decisions. When it is a question under a law, then all are bound by the judicial decisions upon it; but when it is a question of repeal or enactment, or re-enactment, before Congress or the people, the constitutional question is a proper subject of inquiry and investigation, and judicial opinions are entitled to great weight as guides to their reasoning, but not, like the argument of a private citizen.

2. The people of the Territory, by acting under the organic law, (and they act under it by voting at any election got under its provisions,) thereby accept all its terms and conditions, and admit the authority of Congress to legislate for Kansas Territory. The organization and action under the organic law, by the people of Kansas, is an indorsement of congressional power of legislation. The people of Kansas cannot act under the organic law, and at the same time deny the power of Congress to pass it.

3. Our territorial judges would place themselves in an awkward dilemma by deciding against the power of Congress to legislate for the Territories, as they hold their offices by virtue of an act of Congress—by virtue of an exercise of the claim of power on the part of Congress to legislate for the Territories. Surely they would not sit on the bench under a void authority, one which they had decided to be void, and try all the varied questions, even of life and death, which must come before them.

4. Elementary principles would hardly help the claimant of the existence of slavery in Kansas. It is not a question for him to search in vain till he finds for him an elementary principle of law which would recognize the existence of slavery where it was not specifically sanctioned by the law-making power. He might perhaps find some consolation in going back to those ages when men claimed the right of taking the lives of all persons who were of war or of sparing their lives for the convenience of the captor, and making them slaves while it pleased his fancy to let them live. But those ages are too dark and barbarous for me to draw my principles from, and those who wish to gather their strength, are welcome to the exclusive opportunities it affords.

5. But, says another, the right to bring slaves into Kansas and hold them, exists by virtue of the extension of the constitution of the United States over the Territory. How can this be? What do you find in that constitution to warrant such a conclusion? There is nothing. The constitution does not create slavery, it does not extend slavery. Slavery is not a creature of the constitution, it does not rest upon the constitution for its existence; it exists independent of the constitution; its control is a matter of State sovereignty, as well as creation and continuance. Why, if the constitution sanctioned the introduction of slavery into the Territories of the United States, the act of Congress prohibiting it in the territory north-west of the Ohio, was certainly unconstitutional, as an attempt to restrict the operation of the constitution, by prohibiting what the constitution authorized; and yet in no Court North or South, in which the validity of that act was decided, did any one think of taking the position that the act was unconstitutional, because the constitution authorized the introduction of slavery into the Territory, while the act of Congress prohibited it, thus coming in direct collision with the constitution. If the position were correct, the Territorial Legislature would be powerless, and the power after State organization might well be more than doubted. Suppose some State were to change the time for the emancipation of children from the control of the parents, and fix the age at thirty years, and a man with children were to move into Kansas, do you suppose those children would be bound to labor for the parent until thirty years of age? If a negro brought from the same State could be compelled to serve for life, because he changed the time for the emancipation of children from the control of the parents, and fix the age at thirty years, and a man with children were to move into Kansas, do you suppose those children would be bound to labor for the parent until thirty years of age? If a negro brought from the same State could be compelled to serve for life, because he changed the time for the emancipation of children from the control of the parents, and fix the age at thirty years, and a man with children were to move into Kansas, do you suppose those children would be bound to labor for the parent until thirty years of age?

If a citizen of a slave State could take his slaves into a Territory, and hold them, because slavery was legal in the State from whence he came, recognized the right, and so the rights of each citizen of the Territory could depend, not upon the laws of the Territory, but upon the laws of the State from whence he came; and if it

should turn out in some case that each litigant was backed by the laws of his State which controlled the case, the court would find itself between the horns of a dilemma, from which no ingenuity could extricate it. The case could never be decided. The claim of right on the part of a slaveholder to take his slaves into the Territory and hold them, because slavery was legal in the State from whence he came, would give him the right to hold them in defiance of territorial authority. It would make him above the reach of territorial law; and if the principle were good in this case, it would hold good as to other emigrants. But there is nothing in this new-law mode of getting slavery into the Territories. The idea is a plant of nightshade growth, and withers in the sunlight of reason. The consequences of the claim show its absurdity so manifestly, that it is astonishing any sane man could ever become so deluded as to have the face to urge it as a right.

Senator Atchison, of Missouri, in a speech at Liberty, Mo., Nov. 6th, 1854, says: "The organic law of the Territory vests in the people who reside in it the power to form all their municipal regulations. They can either admit or exclude slavery." Here, then, is a distinct admission that slavery does not exist in Kansas, and the legitimate action of the people is required to admit it. The people may admit; that is, let in, or exclude—keep out—slavery. All men, in everything they do, act from motive. They have an object to accomplish in doing as they do. So far as our actions affect others, we are morally bound to act so as to do them no wrong.

Now, what motive can you have in voting for slavery in Kansas? What can be your object? How will your action, if successful, affect the people of Kansas, present and future? What effect will it have upon the prosperity of the Territory? These are questions which you should ask yourself, and should decide by the full exercise of all your powers of mind which God has given you; and when your decision is made, it should be made feeling a sense of the obligations you are under to do right.

1. As to your motive and object in voting for slavery in Kansas; for the motive and object really amount to the same thing. Why should you do it? What benefit do you expect to derive from it? Very few of you expect to buy slaves. Their high price—the large investment of money it requires—the risk you run of their loss of health and death, and running away, makes the investment a hazardous one. I have conversed with many of you who are in the slave States, and they say slavery is an evil; that slave labor is unprofitable, as a general thing; that if slavery and the negroes were out of the country, it would be better for the country. Certainly there is nothing peculiarly pleasant in having negroes in the States. There is nothing so attractive and agreeable about them as to make their presence around you peculiarly desirable. If you were hiring help to work on your farm, you would certainly prefer to hire a white man instead of a negro. It would certainly be more pleasant to have a white man in his office than a negro. Every thing which can reasonably be required of a negro or negroes to do, a white man or white woman performs with cheerfulness, and generally much better and more readily. All labor is honorable. The man who earns his bread by the sweat of his brow, no matter how humble his employment, is just as respectable and honorable, and more so, than the man who never earned his salt. The men who consider it a disgrace to labor at anything honest, are sunk too low for contempt. It is no disgrace for man or woman to labor for others for a living. But if you introduce slavery into the Territory, white men and white women will dislike to place themselves on a level with the negro. All the pride of human nature is aroused. Kansas can never be a slave State with a sufficient number of slaves to perform all the labor which slaves can perform; and it will create a serious difficulty to those who have to hire, in obtaining the amount of help actually needed. Slavery will keep out a class of laborers generally needed. Exclude slavery, and you will find that the supply of labor will keep up with the demand. Now Kansas is in a position to exclude slavery and protect herself from the evil of the presence of free negroes. On this point she can place herself in nearly as favorable a position as though there was not a negro in America. Exclude slavery and free negroes, and make Kansas a State of the free white men. I heard an ultra pro-slavery man complaining bitterly, the other day, at this, in a slave State, alleging that the tendency of excluding free negroes was to debase them, and make them as barbarous as they were in Africa. That allegation I consider a base slander upon the people of the slave States. I do not believe, if Kansas excludes free negroes, that the people of the slave States are going to push them all back into the darkness, barbarism, and heathenism of African negroes. The idea of such a thing is preposterous. But the motive, the object, which induces that man to promulgate such notions is transparent. He is one of those men who would like to get all the free negroes out of the slave States, to remove them from association with the slave. If we exclude them from Kansas, we shut off the chance of throwing a portion of them upon us. If the position of excluding slavery and free negroes is taken by Kansas, and carried out, the slaves of those States who would like to get all the free negroes out of the slave States, will more particularly direct their efforts through which man has passed. Human skill and ingenuity, enterprise and activity, are directed to those things which add to the comforts and conveniences of life, far beyond all former precedent. Slavery hangs like a dead weight upon the people of the slave States, and it is a terrible curse to the age. Whatever it may have been in times long past and gone, it is not adapted to the character of the present age. In those States where it exists, it certainly exerts a lethargic influence upon the practical enterprise and energy, and the general progress and prosperity. This age is truly a utilitarian age, more particularly so than any period through which man has passed. Human skill and ingenuity, enterprise and activity, are directed to those things which add to the comforts and conveniences of life, far beyond all former precedent. Slavery hangs like a dead weight upon the people of the slave States, and it is a terrible curse to the age. Whatever it may have been in times long past and gone, it is not adapted to the character of the present age. 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